

Application No.: 09/961,395
Attorney Docket No.: 021123-0265258

REMARKS

I. Status of the claims

Claims 1-5, 7-9, and 11-19 are pending. Claims 1 and 8 have been amended in this response to clarify the claims and recite a sodium percarbonate element that does not contain a magnesium salt in combination with a condensed phosphate. Support for this amendment may be found in the specification and original claims. No new matter has been presented through these amendments.

Since the essence of this amendment had been previously submitted by Applicants and considered by the examiner, entry of this amendment requires no additional search to be performed by the examiner. Therefore, Applicants request that the examiner enter this amendment to place the application either in condition for allowance or in better condition for appeal.

II. Rejection under 35 U.S.C. § 112, first paragraph

The examiner has rejected claims 1 and 8 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. The examiner refers to the previous Office Action, which bases this rejection on the phrase "wherein the sodium percarbonate does not contain a condensed phosphate" recited in claims 1 and 8. Additionally, in page 2 of this Office Action, the examiner states, when referring to above-cited phrase, "The specification and original claims are clearly specific that the combination of a magnesium salt and a condensed phosphate alone is excluded."

In this response, Applicants have amended the claims to recite language that the examiner has indicated has clear support. Thus, the claims now recite sodium percarbonate that does not contain a magnesium salt in combination with a condensed phosphate. As this claim language has clearer support in the specification, Applicants respectfully request that the examiner withdraw this rejection.

III. Rejections under 35 U.S.C. § 103(a)

The examiner has rejected claims 1-3, 5, 7-9, and 11-19 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,560,896 to Bewersdorf et al. ("Bewersdorf '896");

Application No.: 09/961,395
Attorney Docket No.: 021123-0265258

claims 1-3, 5, 7-9, and 11-19 under 35 U.S.C. § 103(a) as being unpatentable over Bewersdorf '896 in view of U.S. Patent No. 4,428,914 to Brichard et al. ("Brichard"); claims 1-3, 5, 7-9, and 11-19 under 35 U.S.C. § 103(a) as being unpatentable over Bewersdorf '896 and further in view of U.S. Patent No. 5,714,201 to Bewersdorf et al. ("Bewersdorf '201"); and claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Bewersdorf '896, Bewersdorf '896 in view Brichard, or Bewersdorf '896 in view of Bewersdorf '201, and further in view of U.S. Patent No. 6,413,927 to Horne et al. ("Horne"). Applicants respectfully traverse these rejections and discuss each of the cited references in turn.

Bewersdorf '896 does not explicitly teach all the elements recited in Applicants' claimed invention. For these untaught elements, the examiner concludes that the differences between Bewersdorf '896 and Applicants' claimed invention are obvious because these differences are viewed as "the optimization of known processes."

However, a person of skill in the art can perform routine optimization only on features that are disclosed in the prior art or features that the skilled artisan knows to be result-effective variables for the properties disclosed in the prior art based on the general knowledge of the skilled artisan. Bewersdorf '896 only relates to the active oxygen stability of percarbonate and contains no teaching relating to the properties of the percarbonate.

Furthermore, Bewersdorf '896 does not teach or suggest that the modulus of water glass used for the stabilization or that the composition of the water glass could be a result-effective variable for the active oxygen stabilization. Therefore, a person of skill in the art would not be motivated from the disclosure of Bewersdorf '896 to select the modulus of water glass as a result-effective variable and perform an optimization of this feature. The mere fact that water glass can have different compositions is insufficient by itself to prompt a person of skill in the art to perform an optimization on such a feature, especially if the skilled artisan has no indication that this feature is a result-effective variable for the results intended to be achieved. Accordingly, the lack of specificity in the disclosure of Bewersdorf '896 would not provide the requisite expectation of success to lead a skilled artisan to optimize the properties of the Bewersdorf composition in the manner suggested by the examiner. Bewersdorf '896 thus fails to teach or suggest Applicants' claimed invention.

Application No.: 09/961,395
Attorney Docket No.: 021123-0265258

Brichard also does not teach or suggest the modulus of the water glass used or that the modulus of the water glass may be a result-effective variable for any property of sodium percarbonate. Consequently, combining the teachings of Brichard with the teachings of Bewersdorf '896 does not render obvious Applicants' claimed invention.

Bewersdorf '201 seems to teach away from Applicants' claimed invention. The experimental data of Bewersdorf '201 shows that the incorporation of a sodium silicate alone--without the simultaneous incorporation of a magnesium compound--into the body of a particle of granular sodium percarbonate will result in the same dissolution time for such a particle irrespective of the modulus of the sodium silicate varying from 1.8 to 3.1. See Table 2 in col. 6, lines 6-18, illustrating identical dissolution times for the uncoated particles of example 3 and comparative example 3. On the other hand, the use of sodium silicate with a modulus of 1.8 results in a lower active oxygen retention than the use of sodium silicate with a modulus of 3.1.

In view of this teaching, a skilled artisan would modify the disclosure of Bewersdorf '896 by using a water glass with a modulus of 3.1 in order to improve the active oxygen retention without expecting any effect on the dissolution time of the sodium percarbonate granules. Since Applicants' claimed invention recites waterglass having an SiO_2/NaO module ranging from 1 to 3—a range that does not include 3.1—the combination of Bewersdorf '201 and Bewersdorf '896 does not render obvious Applicants' claimed invention.

Additionally, in Bewersdorf '201, the examples show the modulus of sodium silicate to be a result-effective variable for the dissolution time only for sodium silicate incorporated into the coating layer. Bewersdorf '201 does not show this for the sodium silicate incorporated into the body of the sodium percarbonate particle. In contrast, Applicants' claimed process, in particular claim 8, recites a granular sodium percarbonate having an even distribution of the water glass in the sodium percarbonate. The data set forth in Bewersdorf '201 relating to coated particles, therefore, is irrelevant to Applicants' claimed invention.

Lastly, Horne does not contain any disclosure on the modulus of the alkali metal silicate disclosed therein and therefore cannot provide a skilled artisan with the requisite motivation to combine its teachings with any of the other references for the purposes of optimizing this parameter. Therefore, Horne does not cure the deficiencies of the other references.

Application No.: 09/961,395
Attorney Docket No.: 021123-0265258

Accordingly, the references by themselves or in combination with one another fail to teach or suggest Applicants' claimed invention. In view of the deficiencies in the teachings of the references cited by the examiner, a skilled artisan would not have the requisite motivation, as alleged by the examiner, to "optimize" the disclosed properties and arrive at with Applicants' claimed invention; if modified in the manner suggested by the examiner, there would be no expectation of success. Hence, the rejections under U.S.C. § 103(a) are improper, and Applicants respectfully request that the examiner withdraw each of the rejections.

IV. Conclusion

Applicants believe that the amendments place the application in condition for allowance or in better condition for appeal. Entry of the amendments and reconsideration of the application is respectfully requested.

Should any issues remain unresolved, the examiner is encouraged to contact the undersigned attorney for the applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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November 19, 2004

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